

Enrolled
House Bill 2409

Sponsored by Representatives BARKER, OLSON, LININGER, Senators KRUSE, STEINER HAYWARD; Senators GELSER, MANNING JR (Presession filed.)

CHAPTER

AN ACT

Relating to traffic violations; creating new provisions; amending ORS 810.434, 810.435 and 810.436; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2017 Act is added to and made a part of the Oregon Vehicle Code.

SECTION 2. (1) Notwithstanding any other provision of law, if a city chooses to operate cameras that comply with this section and ORS 810.434, a citation for speeding may be issued on the basis of photographs from a camera and other technology, including but not limited to sensors, that measure the speed of a vehicle without the presence of a police officer if the following conditions are met:

(a) Signs are posted, so far as is practicable, on all major routes entering the jurisdiction indicating that compliance with traffic laws is enforced through cameras and other technology.

(b) For each traffic control device at which a camera is installed, signs indicating that a camera system may be in operation at the traffic control device are posted before the device at a location near the device.

(c) The citation is mailed to the registered owner of the vehicle, or to the driver if identifiable, within 10 business days of the alleged violation.

(d) The registered owner is given 30 days from the date the citation is delivered to respond to the citation.

(e) A police officer who has reviewed the photograph and other data signs the citation. The citation may be prepared on a digital medium, and the signature may be electronic in accordance with the provisions of ORS 84.001 to 84.061.

(f) The person exceeded the speed limit or designated speed by 11 miles per hour or greater.

(2) If the person named as the registered owner of a vehicle in the current records of the Department of Transportation fails to respond to a citation issued under subsection (1) of this section, a default judgment under ORS 153.102 may be entered for failure to appear after notice has been given that the judgment will be entered.

(3) A rebuttable presumption exists that the registered owner of the vehicle was the driver of the vehicle when the citation was issued and delivered as provided in this section.

(4) A person issued a citation under subsection (1) of this section may respond to the citation by submitting a certificate of innocence or a certificate of nonliability under subsection (6) of this section or any other response allowed by law.

(5) A citation issued under this section on the basis of photographs from a camera installed as provided in this section and ORS 810.434 may be delivered by mail or otherwise to the registered owner of the vehicle or to the driver if the driver is identifiable from the photograph.

(6)(a) A registered owner of a vehicle may respond by mail to a citation issued under subsection (1) of this section by submitting, within 30 days from delivery of the citation, a certificate of innocence swearing or affirming that the owner was not the driver of the vehicle and by providing a photocopy of the owner's driver license. A jurisdiction that receives a certificate of innocence under this paragraph shall dismiss the citation without requiring a court appearance by the registered owner or any other information from the registered owner other than the swearing or affirmation and the photocopy. The citation may be reissued only once, only to the registered owner and only if the jurisdiction verifies that the registered owner appears to have been the driver at the time of the violation. A registered owner may not submit a certificate of innocence in response to a reissued citation.

(b) If a business or public agency responds to a citation issued under subsection (1) of this section by submitting, within 30 days from delivery of the citation, a certificate of nonliability stating that at the time of the alleged violation the vehicle was in the custody and control of an employee or was in the custody and control of a renter or lessee under the terms of a motor vehicle rental agreement or lease, and if the business or public agency provides the driver license number, name and address of the employee, renter or lessee, the citation shall be dismissed with respect to the business or public agency. The citation may then be reissued and delivered by mail or otherwise to the employee, renter or lessee identified in the certificate of nonliability.

(7) The penalties for and all consequences of a speeding violation initiated by the use of a camera installed as provided in this section and ORS 810.434 are the same as for a violation initiated by any other means.

(8) A registered owner or an employee, renter or lessee against whom a judgment for failure to appear is entered may move the court to relieve the owner or the employee, renter or lessee from the judgment as provided in ORS 153.105 if the failure to appear was due to mistake, inadvertence, surprise or excusable neglect.

SECTION 3. ORS 810.434 is amended to read:

810.434. (1) Any city may, at its own cost, operate cameras designed to photograph drivers who:

(a) Violate ORS 811.265 by failing to obey a traffic control device[.]; or

(b) **Violate the speed limit established in ORS 811.111 by 11 miles per hour or greater or violate the designated speed posted under ORS 810.180 by 11 miles per hour or greater.**

(2) Cameras operated under this section may be mounted on street lights or put in other suitable places.

(3) A city that chooses to operate a camera shall:

(a) Provide a public information campaign to inform local drivers about the use of cameras before citations are actually issued; and

(b) Once each biennium, conduct a process and outcome evaluation for the purposes of subsection (4) of this section that includes:

(A) The effect of the use of cameras on traffic safety;

(B) The degree of public acceptance of the use of cameras; and

(C) The process of administration of the use of cameras.

(4) By March 1 of each odd-numbered year, each city that operates a camera under this section shall present to the Legislative Assembly the process and outcome evaluation conducted by the city under subsection (3) of this section.

SECTION 4. ORS 810.435 is amended to read:

810.435. (1) Except as provided in subsection (2) of this section, photographs taken under ORS 810.434 may be submitted into evidence in a criminal trial, grand jury proceeding or other criminal proceeding for the purpose of proving or disproving a felony or a Class A misdemeanor.

(2) Photographs taken under ORS 810.434 may not be used in any criminal proceeding relating to the prosecution of a violation as described in ORS 153.008, other than for the purpose of proving or disproving a violation of:

(a) ORS 811.265[.];

(b) **ORS 811.111 by 11 miles per hour or greater; or**

(c) **A designated speed posted under ORS 810.180 by 11 miles per hour or greater.**

SECTION 5. ORS 810.436 is amended to read:

810.436. (1) Notwithstanding any other provision of law, if a city chooses to operate a camera that complies with this section and ORS 810.434, a citation for violation of ORS 811.265 may be issued on the basis of photographs from a camera taken without the presence of a police officer if the following conditions are met:

(a) Signs are posted, so far as is practicable, on all major routes entering the jurisdiction indicating that compliance with traffic control devices is enforced through cameras.

(b) For each traffic control device at which a camera is installed, signs indicating that a camera may be in operation at the device are posted before the device at a location near the device.

(c) If the traffic control device is a traffic light, the yellow light shows for at least the length of time recommended by the standard set by the Institute of Transportation Engineers.

(d) The citation is mailed to the registered owner of the vehicle, or to the driver if identifiable, within 10 business days of the alleged violation.

(e) The registered owner is given 30 days from the date the citation is mailed to respond to the citation.

(f) A police officer who has reviewed the photograph signs the citation. The citation may be prepared on a digital medium, and the signature may be electronic in accordance with the provisions of ORS 84.001 to 84.061.

(2) Notwithstanding subsection (1) of this section, if the city issues a citation under section 2 of this 2017 Act for exceeding the speed limit under ORS 811.111 or designated speed posted under ORS 810.180 by 11 to 20 miles per hour, the city may not issue a citation under this section for violation of ORS 811.265 arising out of the same criminal episode, as defined in ORS 131.505.

[2] (3) If the person named as the registered owner of a vehicle in the current records of the Department of Transportation fails to respond to a citation issued under subsection (1) of this section, a default judgment under ORS 153.102 may be entered for failure to appear after notice has been given that the judgment will be entered.

[3] (4) A rebuttable presumption exists that the registered owner of the vehicle was the driver of the vehicle when the citation was issued and delivered as provided in this section.

[4] (5) A person issued a citation under subsection (1) of this section may respond to the citation by submitting a certificate of innocence or a certificate of nonliability under subsection [(6)] (7) of this section or any other response allowed by law.

[5] (6) A citation for violation of ORS 811.265 issued on the basis of photographs from a camera installed as provided in this section and ORS 810.434 may be delivered by mail or otherwise to the registered owner of the vehicle or to the driver if the driver is identifiable from the photograph.

[(6)(a)] (7)(a) A registered owner of a vehicle may respond by mail to a citation issued under subsection (1) of this section by submitting, within 30 days from the mailing of the citation, a certificate of innocence swearing or affirming that the owner was not the driver of the vehicle and by providing a photocopy of the owner's driver license. A jurisdiction that receives a certificate of innocence under this paragraph shall dismiss the citation without requiring a court appearance by the registered owner or any other information from the registered owner other than the swearing or affirmation and the photocopy. The citation may be reissued only once, only to the registered owner

and only if the jurisdiction verifies that the registered owner appears to have been the driver at the time of the violation. A registered owner may not submit a certificate of innocence in response to a reissued citation.

(b) If a business or public agency responds to a citation issued under subsection (1) of this section by submitting, within 30 days from the mailing of the citation, a certificate of nonliability stating that at the time of the alleged violation the vehicle was in the custody and control of an employee or was in the custody and control of a renter or lessee under the terms of a motor vehicle rental agreement or lease, and if the business or public agency provides the driver license number, name and address of the employee, renter or lessee, the citation shall be dismissed with respect to the business or public agency. The citation may then be reissued and delivered by mail or otherwise to the employee, renter or lessee identified in the certificate of nonliability.

[(7)] (8) The penalties for and all consequences of a violation of ORS 811.265 initiated by the use of a camera installed as provided in this section and ORS 810.434 are the same as for a violation initiated by any other means.

[(8)] (9) A registered owner or an employee, renter or lessee against whom a judgment for failure to appear is entered may move the court to relieve the owner or the employee, renter or lessee from the judgment as provided in ORS 153.105 if the failure to appear was due to mistake, inadvertence, surprise or excusable neglect.

SECTION 6. Section 2 of this 2017 Act and the amendments to ORS 810.434, 810.435 and 810.436 by sections 3 to 5 of this 2017 Act apply to conduct occurring on or after the effective date of this 2017 Act.

SECTION 7. This 2017 Act takes effect on the 91st day after the date on which the 2017 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

Passed by House May 3, 2017

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 31, 2017

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2017

Approved:

.....M.,....., 2017

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2017

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Dennis Richardson, Secretary of State